

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CURTIS RICHARDSON,

Defendant.

8:06CR125

ORDER

This matter is before the court on the Curtis Richardson's Application for the court to Request Pro Bono Counsel (Filing No. 95). Richardson requests the court appoint counsel to represent him on his Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Filing No. 94), which was filed on the same day. Richardson contends appointed counsel is necessary because he does not know the legal process and would not be able to diligently and aggressively litigate the constitutional violations underlying his conviction. **See** Filing No. 95.

Section 2255(g) provides "the court may appoint counsel" and any appointment is governed by 18 U.S.C. § 3006A. However, "there is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment of counsel] is committed to the discretion of the trial court." **McCall v. Benson**, 114 F.3d 754, 756 (8th Cir. 1997) (citations omitted); **Baker v. United States**, 334 F.2d 444, 447-48 (8th Cir. 1964). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. **See, e.g., Morris v. Dormire**, 217 F.3d 556, 558-59 (8th Cir. 2000); **Hoggard v. Purkett**, 29 F.3d 469, 471 (8th Cir. 1994) (citations omitted); **see also** Rule 8(c) of the Rules Governing Section 2255 Cases in the United States District Courts (requiring appointment of counsel if an evidentiary hearing is warranted). Upon review of the pleadings and Richardson's request, the court finds there is no need for the appointment of counsel.

IT IS ORDERED:

The defendant's Application for the court to Request Pro Bono Counsel (Filing No. 95) is denied.

Dated this 24th day of October, 2014.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge